

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SHAVONDA BAILEY, as Next Friend of §
K.A., and P.A.; and VIVIAN LAMPKINS, §
As Next Friend of J.L. §

v. §

CITY OF SAN ANTONIO, TEXAS; §
NATHAN PRESTON, *Individually* §
VIDAL DIAZ, *Individually* §
MICHAEL FLETCHER, *Individually* §
FRANCISCO GALVAN, *Individually* §
MATTHEW FLORES, *Individually* §
AUBREY PLAUCHE, *Individually* §
MATTHEW QUINTANILLA, *Individually* §
ROBERT TAMEZ, *Individually*; and §
PAUL TRIGO, *Individually* §

CIVIL ACTION NO. 13-CV-700-FB

AFFIDAVIT OF CHRIS BENAVIDES

STATE OF TEXAS §
§
COUNTY OF BEXAR §

Before me, the undersigned authority, personally appeared CHRIS BENAVIDES and stated as follows:

"My name is CHRIS BENAVIDES. I am of sound mind, capable of making this affidavit and personally acquainted with the facts stated herein:

'I am employed by the San Antonio Police Department and have been employed by the San Antonio Police Department for approximately fourteen years. I currently hold the rank of Lieutenant. I have held every rank in the Police Department up to and including the rank of Lieutenant. I am currently assigned as the Unit Director overseeing the Homicide Unit and have held that position since August 2012.

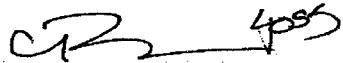
The personnel in the San Antonio Police Department's Homicide Unit, specifically the shooting team, are charged with and have a legal duty to investigate all custodial death cases involving members of department. The shooting team is a group of departmental members who report directly to the Deputy Chief in command of the Investigations Division. All shooting team members are assigned specific investigative responsibilities in furtherance of the custodial death investigation including the taking of factual statements of the officers and witnesses involved or present at the scene and gathering the reports and/or supplemental reports of the

officers present at the scene. The legally authorized investigation by the shooting team results in the generation of a report which consists of the factual findings of the investigation. The Homicide unit is responsible for the maintenance of copies of all officer involved shooting / custodial death investigation files, and I am the custodian of those records.

The incident made the basis of this investigation involves Officer Francisco Galvan, Detective Nathan Preston, Detective Michael Fletcher, Officer Matthew Flores, Officer Matthew Quintanilla, Officer Robert Tamez, Officer Paul Trigo, Officer Vidal Diaz, and Officer Aubrey Plauche and the custodial death that occurred on August 4, 2011 at 10800 Deep Water Bay which resulted in the death of Pierre Abernathy. In fulfillment of their legal duty, the shooting team investigated this custodial death under SAPD Case 11-195919, and as part of the investigation took statements of the officers and witnesses present and/or involved in the incident and gathered the reports and/or supplemental reports of the officers at the scene.

As the custodian of records for the Homicide Unit, I am attaching hereto twenty-eight (28) pages of records from the San Antonio Police Department Homicide Unit from the investigation by the shooting team of the custodial death under SAPD Case 11-195919. Specifically, I have attached 1) the statement of Officer Francisco Galvan; 2) the statement of Detective Nathan Preston; 3) the statement of Detective Michael Fletcher; 4) the statement of Officer Matthew Flores; 5) the statement of Officer Matthew Quintanilla; 6) the statement of Officer Robert Tamez; 7) the statement of Officer Paul Trigo; 8) the statement of Officer Vidal Diaz; 9) the statement of Officer Aubrey Plauche; and, 10) the statement of Gary Hovermale. The twenty eight (28) pages of records attached hereto are kept in the regular course of business, and it was the regular course of business of the San Antonio Police Department Homicide Unit for an employee or representative of the San Antonio Police Department Homicide Unit, with knowledge of the act, event, condition or opinion recorded therein, to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time of the event or reasonably soon thereafter. The records attached hereto are true and correct copies of the original.

'Further affiant sayeth not.'


LT. CHRIS BENAVIDES
San Antonio Police Department

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned Notary Public for the State of Texas, by the aforementioned affiant, CHRIS BENAVIDES, on this the 17 day of February, 2015.


Notary Public, State of Texas

My commission expires: 6-26-14



STATE OF TEXAS §
@ -COUNTY OF BEXAR §

Case Number: 2011-195919
Date and Time: 08-04-11 @ 0900
Taken by: Det. Roberts #2393

Page 1 of 1

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Officer F. Galvan #0214, being by me duly sworn upon his/her oath deposes and says:

I am Officer F. Galvan, badge number 0214, with the San Antonio Police Department. I graduated the SAPD Academy in October of 2001. I am currently assigned to East Patrol on the B Shift. I also work the DWI STEP program. While I was in the Academy, I was certified in the Horizontal Gaze Nystagmus and other field sobriety test. I have been re-certified every year since then, with my last re-certification towards the end of the year 2010. I am also certified as a Crises Response Team and am certified to carry a TASER. The CRT school was a week long and the TASER School was a two day class.

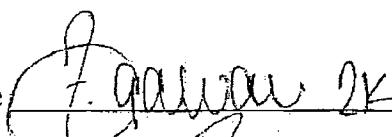
Last night, August 3, 2011, I was on special assignment and was at a Drug Interdiction School. I was also signed up for the DWI STEP program. I had roll call at 2300 hours. I was dressed in full SAPD regulation uniform and I was driving an unmarked SAPD Patrol vehicle. This vehicle does not have the usual over head bar lights on it. The emergency lights are mounted in the grill of the car, in the dash and in the back window.

On the STEP Program, we are not assigned to any particular area of town. I have been working STEP for over ten years. I probably have over 500 arrests for DWI. When I work STEP I usually work either the downtown area or the northwest area. I usually partner up with Detective M. Fletcher. We are in separate cars but usually work in the same area together since we work well together.

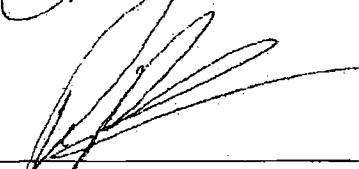
After roll call, Detective Fletcher and I went to the area of Loop 1604 and Lock Hill Selma. There are numerous bars in this area and there are a lot of DWI's. I stopped two cars for running a stop sign and issued four citations. While I was patrolling, I heard Detective Fletcher check out on traffic. I used my GPS to located Detective Fletcher and was going to go back him up on the traffic stop at Loop 1604 and IH 10. This was between 0230 and 0245 hours.

While I was driving to his location, I took the exit from 1604 to IH 10W. I stayed on the access road and was making the turn around at La Cantera when I noticed a vehicle driving the wrong way on La Cantera. I saw a black Ford Explorer driving east in the west bound lane. This part of La Cantera has a medium that separates the east and west lanes. As I was watching this vehicle, I saw another vehicle traveling in the right direction. The other car stopped and the Explorer drove around it. The Explorer kept driving in the wrong lane. I got on the radio and advised the dispatcher of what I had seen and told the dispatcher that I was going to stop the vehicle. There was no other traffic at that time and I feared that if I did not stop this vehicle there would be a major accident.

Signature


F. Galvan 2K

Witnessed before me on this 4th day of August, 2011


EXHIBIT "D-1"

Detective Roberts #2393

COSA
000111

DOCUMENT # 3-2

STATE OF TEXAS §
@ -COUNTY OF BEXAR §

Case Number. 2011-195919
Date and Time: 08-04-11 @ 0900
Taken by : Det. Roberts #2393

Page 1 of 1

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared, Officer F. Galvan #0214, being by me duly sworn upon his/her oath deposes and says:

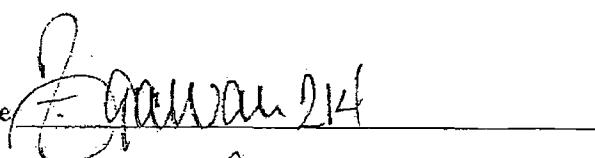
I activated my emergency lights at this time and I got behind the Explorer. The Explorer was not speeding but I noticed that the driver was having a hard time maintaining the lane; he was weaving in and out of his lane. My lights were on and I turned on my siren. The vehicle would not stop. I heard over the radio that Detective Fletcher was on the way to my location as well as Prue Road officers.

As I was following the vehicle it stopped at a stop sign, then turned into the parking lot heading towards the Bass Pro Shop. As the driver turned, I could see him looking at me through the drivers side mirror. I saw that he was talking on his cell phone. I gave the dispatcher his description, a black male wearing a black cap. As he was driving in the parking lot he started to slow down. I thought that he was going to stop his vehicle and run on foot. I asked the dispatcher to dispatch a K9 unit.

The driver kept driving, again he was not speeding but he was weaving. He drove to the access road of IH 10. I told the dispatcher that I thought he maybe going towards Boerne and to have my cover officer's head that way. He exited the parking lot and I was still behind him with my lights and siren on. He drove west on the access road and then pulled back into the parking lot near the Lowes Store. He did this two times, exiting the parking lot onto the access road and then back into the parking lot. Again he was not speeding but could not maintain his lane of travel. During this time I was able to give the dispatcher a good description of the vehicle and the license plate number.

The vehicle exited the parking lot again and got onto La Cantera, the proper lane this time. He went under IH10 and took a left on the access road heading towards Loop 1604. Again, the vehicle is not speeding but weaving from lane to lane. At about this time I heard over the radio that EAGLE was overhead. The driver continued on the access road and got onto the access road of 1604 heading west. He drove past the La Cantera exit. He ran the red light at, I think, UTSA Blvd. At this time Detective Fletcher was behind me and got on the radio and said that he would take over the radio communications with the dispatcher. I still had my lights and siren on. The driver of the Explorer pulled into a Chevron gas station and had to go around people and vehicles that were in the parking lot. At this time I was unable to stay behind the vehicle so Detective Fletcher became the lead. The driver then exited the Chevron and was heading back to 1604. He took a left on the access road and was now heading towards IH10. He took the exit for IH10 and continued on the access road. Again he was not speeding but was still weaving. The driver ran the red light at UTSA Blvd and then got onto IH10W heading towards downtown. He was in the outside (right) lane and continued all the way to Loop 410. Again he was not speeding but weaving. The driver took the exit for Loop 410 and was now headed west. Detective Fletcher got on the radio and advised that

Signature


F. Galvan #0214

Witnessed before me on this 4th day of August, 2011


Detective Roberts #2393

EXHIBIT "D-2"

COSA
000112

STATE OF TEXAS §
@ -COUNTY OF BEXAR §

Case Number. 011-195919
Date and Time: 08-04-11 @ 0900
Taken by: Det. Roberts #2393

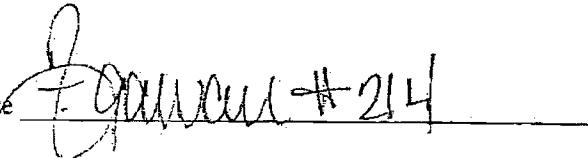
Page 1 of 1

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Officer F. Galvan #0214, being by me duly sworn upon his/her oath deposes and says:

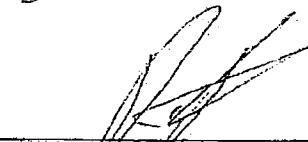
he was going to back off and let Officer Preston take the lead because Officer Preston's patrol vehicle is equipped with video. The driver of the Explorer continued in the outside lane and then took the 151 exit heading out of town. He stayed on the access road until he reached Military Dr. The driver ran the red light and took a left on Military Dr. I don't know the names of the streets at this point. The driver stopped for a stop sign then continued on and turned left into a subdivision then took the first left. I looked at the street sign and he had turned on Deep Water Bay. This street is a cul-de-sac. The driver stopped in front of a house that had a lot of cars parked in the drive way. Officer Preston had stopped right behind the Explorer and I stopped behind him. I exited my patrol car and ran up to the driver. I had drawn my TASER and was now pointing it at him. The driver had his hands up but the window was also up. We were yelling at him to get out of the car and to get his hands up. The driver did get out of his car. The driver was about 6'2 and was a good 250 pounds. It looked like he was more muscular than fat. I also noticed that there was a K9 officers with me. The driver got out of his car and had his hands up. I had my TASER pointed at him and told him to get on the ground. At first he hesitated but then complied. Officer Preston got his left hand handcuffed and was going for his right hand. I put my TASER up and was going to help when the driver [actor] would not take his right hand from under him. He started to resist so I pulled my TASER back out and turned it on. Officer Preston was unable to handcuff the actor and the actor stood up. He was larger than me and I decided to use my TASER. I yelled, "TASER! TASER!" and I fired at center mass. My TASER deployed for five seconds and had no effect on the actor. He just stood there and did not even tense up. I pulled the trigger again activating it for another five seconds. This had no effect on him. The wire leads to the TASER are 21 feet. The actor started running, for what I guess was his mother's house because he was yelling, "Momma! Momma!" as he ran towards the house. The leads to my TASER are still in him.

Myself and another officer were running right behind him. The actor reached the front door, a glass storm door, and tried to get in. The glass to the door shattered at this time. I pulled the cartridge off my TASER and I thought I reloaded it. I found out later that I had not. My intent was to shoot the actor again with my TASER. The actor then ran to the house next door and tried to get in. One of the K9 officers, I don't know his name, hit the actor in the upper torso with his ASP. Again this had no effect on him. I don't know who it was, but I heard, "TASER! TASER!" and someone shot the actor again with a TASER. It had no effect on him. The actor ran back to his mother's house and tried to get back in again and started fighting with officers. He then broke loose and started running down the street. A K9 officer released his dog and the dog latched onto the actor's buttocks. The actor continued to run with TASER leads and the dog still attached to him. The actor ran to the second house to the right of his mother's front door and fell

Signature



Witnessed before me on this 4th day of August, 2011



Detective Roberts #2393

EXHIBIT "D-3"

COSA
000113

STATE OF TEXAS §
@ -COUNTY OF BEXAR §

Case Number: 2011-195919
Date and Time: 08-04-11 @ 0900
Taken by: Det. Roberts #2393

Page 1 of 1

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Officer F. Galvan #0214, being by me duly sworn upon his/her oath deposes and says:

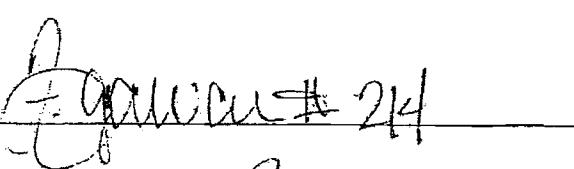
into some bushes. We were trying to hand cuff him but he continued to fight. I hit him in the upper back with the ball of my fist but nothing happened, he continued to fight. I then started hitting him in his stomach but nothing happened. Officer Tamez was there and finally got control of his left arm but could not get his right. Officer Tamez yelled that the actor had his leg. I looked and saw that the actor had a hold of his right leg at the ankle. I continued to hit the actor until I heard someone yell, "TASER! TASER! and the actor was shot again with a TASER. This still had no effect on the actor. He is being tased and the dog is still on him. After a struggle we were able to get his right arm and got him handcuffed.

As is normal with any TASER deployment, I asked the dispatcher to start a Sergeant, an Evidence Detective and EMS. While waiting for EMS, an officer checked on the actor. The actor was talking, I don't know what he was saying, and he was breathing. This officer would check him every so often and would say that he was still breathing and doing good. An officer checked him one more time and yelled that the actor was not breathing. At the same time SAFD arrived. We told them that the actor was not breathing. An officer, I don't know who, started chest compressions while a Fireman was doing the breaths. EMS showed up and transported the actor to the hospital.

During the struggle with the actor, I received several deep scratches on both my arms. I don't know if they were from the actor's fingernails, the bushes or both. EMS treated my arms at the scene.

I would like to say that the actor was much physically larger and stronger than I and most of the officers that were out there. Even after being tased and hit several times, and the dog biting him, we could not stop or control him.

Signature



Witnessed before me on this 4th day of August, 2011.



Detective Roberts #2393

EXHIBIT "D-4"

COSA
000114

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Num SAPD11195919
Date and Tim. 08/03/11 @ 06:48
Taken by Det. Greg Garvelli #2076

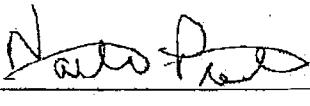
BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared, Officer N. Preston #160, being by me duly sworn upon his/her oath deposes and says:

My name is Officer Nathan Preston, I have been an officer with the San Antonio Police Department for 14 years and 3 months and am currently assigned to the third traffic shift, TCC/DWI Unit.

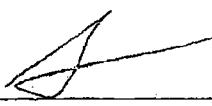
Tonight I was working my regular shift, 2000 hours to 0600 hours. I drive a marked unit equipped with overhead lights, siren and Coban digital recording equipment (video and audio). I was completing a DWI report at 401 S. Frio and was leaving the detention facility. When I exited the detention facility I turned my radio on and heard officers on the traffic channel attempting to get a vehicle stopped. I did not hear what officers were attempting to stop the vehicle for but I did hear a supervisor say that he only wanted two vehicles involved in the pursuit. I also heard officers in the pursuit call for a K9 officer as they felt the guy was going to bail out of the vehicle. The pursuit was in the IH10 / La Cantera area when I was leaving the jail. I left the jail and proceeded to the area where the pursuit was as the officers on the radio involved were stating the guy was looking for a place to bail out and I wanted to be in the area in case this turned into a foot pursuit.

I was on IH 10 westbound near 1604 when I saw the vehicle pursuit on the eastbound access road of IH10. Once I got turned around the pursuit was on the main lanes of IH 10 W as I was coming up behind them. I could only see two police vehicles with their lights on but there were other police vehicles including a K9 unit following at a good distance from the actor's vehicle. As I got up closer to the pursuit the suspect's vehicle was on the main lanes of IH 10 W eastbound near Medical. At this point I got on the radio and asked a Sgt. Bornhauser, the managing supervisor, for permission to be one of the vehicles involved as I had onboard video in my vehicle. Sgt. Bornhauser gave me permission on the radio to get involved in the chase. I got in behind the suspect's vehicle in the primary position and one of the police vehicles with their lights on shut down their overhead emergency lights and dropped back. I remained in the primary pursuit position until the suspect vehicle stopped. The secondary police vehicle in the pursuit called the chase. From the time I entered into the pursuit with Sgt. Bornhauser's permission until the suspect was in custody I had my onboard video and audio recording.

The chase continued on IH10 W eastbound and went 410 west. The speeds were near the speed limit of 60 miles per hour and the suspect would sometimes speed up to approximately 70. We exited onto 151 outbound and took an exit off of 151. I am not sure exactly what exit we got off on as I was not calling the pursuit and had Blue Eagle and other officers on the radio at that time. I think we ended up on a street named Rousseau but I am not positive. From there I remember turning onto a street named Baywater or Waterbay. I remember calling out this street name but am not sure of the exact name of this street. I do remember this was a dead end street and called this out to the dispatcher and other officers on the radio.

Signature 

Witnessed before me on this 4th day of August, 2011


Detective Greg Garvelli #2076

DOCUMENT # 8-1
EXHIBIT "D-5" 000102

STATE OF TEXAS §
COUNTY OF BEXAR §

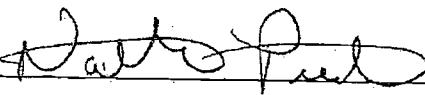
Case Num: SAPD11195919
Date and Time: 08/03/11 @ 06:48
Taken by: Det. Greg Garvelli #2076

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared, Officer N. Preston #160, being by me duly sworn upon his/her oath deposes and says:

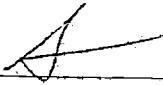
Once on this dead end street the suspect pulled his vehicle, black SUV, partly into a driveway in the cul-de-sac. I could see the suspect moving around in the vehicle and I had heard earlier in the pursuit that the suspect may be looking to bail out of the vehicle so I immediately approached on the driver's side. There was another officer that was on the passenger side of the vehicle but I don't know who this officer was. All I knew is that it was another officer so I stayed focused on the driver. I noticed as I got to the driver side door that the suspect was sweating as if he had been in a sauna. I tried to open the door of the suspect vehicle but it was locked. I did have my hand on my gun but never took it out of the holster. The driver immediately put his hands up and I could see he didn't have a weapon in his hands. I was yelling commands at the driver to unlock the door. The driver unlocked the door and I immediately opened the driver side door. The officer on the passenger side of the vehicle opened the passenger side door at this time also. I was able to get a hold of the driver and get him out of the vehicle. When I got my hands on the driver initially my hands just slipped off of him because he was sweating so much. I then grabbed his wrist with a tighter grip and as he was exiting the vehicle I guided him to the ground. The suspect was maybe a little bit shorter than me but he did outweigh me and I weigh approximately 220 pounds. Other officers were coming up behind me but I don't know who they were.

Once I had the driver on the ground I had a hold of his right arm. I was able to get one handcuff on his right wrist when the driver began to push up from the ground. He pulled his right hand with the handcuff on it to his chest and I lost control of him at this point. He then began to push up off the ground in an apparent attempt to get up. I was trying to get the suspect's arm behind his back when I heard a taser go off. At this point I let go of the suspect as a taser was being deployed. The suspect was up on his knees getting to his feet at this point. I was on the right side of the suspect when he turned away from me and I made contact with the taser wires. I ended up getting the shock from the taser wires and myself and the driver ended up against another vehicle that was in the driveway. I don't remember much for a few seconds after being tased. The next thing I do remember was the suspect running toward the front door of the house and I heard glass breaking. I didn't know if the suspect ran through some glass at the house but the next thing I saw was another officer struggling with the suspect at the front door. I then ran up to the struggle with my taser out of its holster.

I could hear and see officers in a violent struggle with the suspect when I advised officers that I was going to tase the suspect. The officers struggling with the suspect gave him a little room and I deployed my taser at the suspect. I was approximately 5 to 7 feet from the suspect when I deployed my taser. The suspect stopped struggling for a very short time but then took off running again to the left if you are looking at the house. He stretched my taser wires out and broke them off so he had received maybe a 1 or

Signature 

Witnessed before me on this 4th day of August, 2011


Detective Greg Garvelli #2076

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Num: SAPD11195919
Date and Tim: 08/03/11 @ 06:48
Taken by: Det. Greg Garvelli #2076

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared, Officer N. Preston #160, being by me duly sworn upon his/her oath deposes and says:

2 second shock from the taser. The suspect ran to the house to the left and appeared to be trying to get in the front door of this house.

I ran across the yard toward the suspect while reloading my taser with a new cartridge. There were maybe one or two officers in front of me while I was running through the yard to the house to the left. When I got within 5 to 7 feet of the suspect again there were no officers physically engaged with the suspect so I deployed my taser again. I think that I called out to the suspect and other officers that I was deploying my taser again but I can't be sure. The suspect was on his feet when I deployed this second time. After deployment the suspect went to his knees for 2 to 3 seconds, got up and began running back toward the original house. He stretched out the taser wires again breaking them off so he got about a 2 to 3 second shock from my second taser deployment.

When the suspect ran back to the original house I removed my second cartridge from the taser and secured my taser in its holster on my belt. The taser does have a contact shock that can be applied but seeing the suspect had been tased 3 times already and knowing that this application had no effect on him I holstered so the taser would have less of a chance of being used against me or another officer. While holstering my taser I could hear a K9 officer yelling to another K9 officer to go get the dog. I had lost sight of the suspect at this point as he had run around some vehicles toward the original house.

I ran back into the street in the cul-de-sac area and saw the suspect running away from a police dog as the dog was biting at him from behind. The suspect was about 2 houses over from the original house when I saw him running up into the yard. The K9 had a hold of the suspect's pants and was stretching him out as he was trying to run. The suspect was still trying to run but the dog was holding the guy pretty much stationary spot so I took this opportunity and ran up tackling the suspect. We fell to the ground through some bushes. I was trying to get the suspect's arm with the handcuff on it under control when the suspect pushed up with his left arm off the ground and pulled his arm with the handcuff on it toward his chest. I was losing control of the suspect's arm with the handcuff on it. I had been in a physical struggle with the suspect for some time and received a taser shock during this struggle. I was physically winded and feared that if the struggle continued the suspect may seriously injure me or other officers at the location. Being that the suspect still had one handcuff on his right wrist and the dangling end of the handcuff could be used as a weapon against myself or other officers at the scene I hit the suspect with a closed fist at least two times to his head area in an attempt to gain control of him. Some other officers were making contact with the suspect at this point and I know at least one of these officers had deployed their asp baton and had struck the suspect. I am not positive but I think there was one more taser deployed on the suspect. At

Signature 

Witnessed before me on this 4th day of August, 2011



Detective Greg Garvelli #2076

STATE OF TEXAS §
COUNTY OF BEXAR §

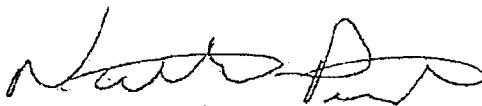
Case Num: SAPD11195919
Date and Tim: 08/03/11 @ 06:48
Taken by: Det. Greg Garvelli #2076

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared, Officer N. Preston #160, being by me duly sworn upon his/her oath deposes and says:

this point other officers were able to get both the suspect's hands behind him and handcuff both hands behind his back. I was holding the suspect's legs at this time with one foot pulled into the crease of his opposite leg and had his opposite leg bent up at the knee to not allow him to have leverage to get up off the ground again. Once the handcuffs were applied all the officers, including myself, got off the suspect. The suspect was placed in a seated position by other officers and I could hear him yelling to his mother and his mother yelling back. I don't remember what the suspect and his mother were yelling back and forth. I went to a yard next door and went to my knees to catch my breath. Either myself or another officer had called on the radio for EMS once the suspect was in custody.

I then went to the house where family members of the suspect were and attempted to explain to them what was going on. I felt pain in my right hand and went to my vehicle at the direction of Captain Andersen. I had injured my right hand when I struck the suspect with a closed fist. From there I was transported by Det. Mike Fletcher to Santa Rosa Westover Hills for treatment. After treatment I was taken by Officer N. Hernandez to the Homicide Office for a statement.

I have read this statement and everything in it is true and correct. I have not been promised anything for this statement.

Signature 

Witnessed before me on this 4th day of August, 2011



Detective Greg Garvelli #2076

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Numbr 11-195919
Date and Tim 8/4/2011 10:07 AM
Taken by: Det. M. De Leon #2058

Page 1 of 3

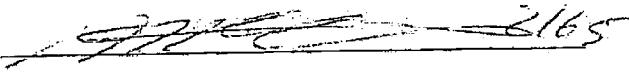
BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Michael Fletcher who being by me duly sworn upon his/her oath deposes and says:

My name is Michael Fletcher, I am 33 years old. I am a full time San Antonio Detective assigned to the Sex Crimes Unit. I can read, write and understand the English language. I have come to the Homicide Unit today to talk to Detective De Leon #2058 about an in custody death.

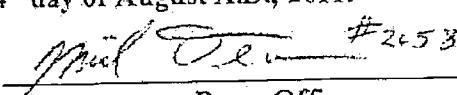
Last night I was working overtime with the DWI Step Unit. While I was on Patrol I heard Officer Frank Galvan come over the radio asking for assistance with a wrong way driver. Officer Galvan said the driver was going the wrong way on the access road of IH 10 West. Officer Galvan said the driver was Eastbound in the West bound lanes of the access road near La Cantera. At this point I was at IH 10 and UTSA Blvd turning around to go West on IH 10. I then asked for his location and he said they were circling the parking lot near the Bass Pro Shops and the Rim shopping center.

When I arrived in the area I noticed that they were westbound on the access road and Officer Galvan was being followed by a Bexar County Officer. The County Officer noticed that I was approaching and he yielded to let me pass him. I then became the second vehicle behind Galvan as the suspect vehicle continued through the parking lot of the Bass Pro Shops. The suspect then exited the parking lot and went all the way down the access road westbound past all the shopping areas and re-entered the parking lot at the end of the access road. We did this two times with Officer Galvan being the lead and the BCSO Officer being the third car. Once we circled the parking lot a second time the BCSO Officer backed off and a Prue Officer got behind me and he gave a description of the suspect driving the Black Ford Explorer as we made a right turn off of La Cantera to go westbound again. Once we were westbound again I noticed the Prue Officer cut through the Bass Pro Shops parking lot as Galvan and myself continued following the suspect vehicle around the parking lot. At this point we exited the Bass Pro Shops area on La Cantera and went under IH 10 towards Fiesta Texas. The Prue Officer followed behind us at a distance.

Once we went under IH 10 Galvan continued to be the lead and I was the second vehicle. I don't know exactly how fast we were going but I read the speed displayed on my radar unit when requested by the supervisor. The suspect vehicle continued west On La Cantera towards 1604 and made a right turn to go South on the access road of 1604. The suspect vehicle then made a right turn on Babcock rd. and pulled in to a gas station at the corner. At this point there were other Officer's who had arrived. The suspect then weaved his way through the parking lot past other police cars. Once he exited the gas station parking lot the suspect went across the lanes and took the turnaround to go northbound on 1604. Once back on the 1604 access road Officer Galvan passed me up and became the lead Officer again. The suspect vehicle then continued north on the access road all the way up to the IH 10 west frontage road. As we approached the eastbound access road of IH 10 I noticed a supervisor vehicle enter onto the main lanes of IH 10 from the IH 10 west eastbound access road with his overhead lights on and sped past us. As we

Signature 

Sworn to and subscribed before me this 4th day of August A.D., 2011.


#2453

Peace Officer

EXHIBIT "D-9"

DOCUMENT # 8-4
COSA
000128

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Num^r : 11-195919
Date and Tim 8/4/2011 10:07 AM
Taken by: Det. M. De Leon #2058

Page 2 of 3

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Michael Fletcher who being by me duly sworn upon his/her oath deposes and says:

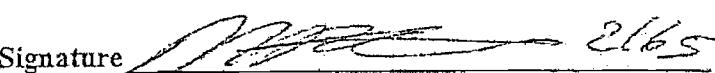
approached the UTSA Blvd intersection I noticed this supervisor vehicle exit the UTSA Blvd exit and was in front of the suspect vehicle.

Both Galvan and I slowed down at this point because the supervisor vehicle had pulled in front of the suspect vehicle and was slowing him down. We then came up to the UTSA Blvd intersection where the suspect vehicle went to the right around the supervisor vehicle. Galvan followed the vehicle through the intersection and I followed Galvan. The supervisor vehicle then followed me as we approached the De Zavala exit ramp, the supervisor vehicle at this point stopped and I continued to follow Galvan as we entered IH 10 west to go Eastbound before the De Zavala intersection. While travelling Eastbound near Fredericksburg Road Officer Nathan Preston came over the radio informing us that he had video in his vehicle and he then became the second vehicle. I then slowed down and followed at a distance.

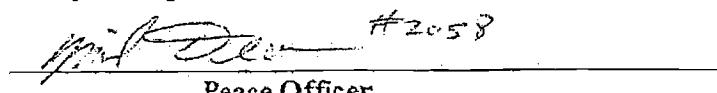
As they continued East on IH 10 the suspect vehicle took the exit to go West on Loop 410. This continued until the suspect vehicle exited from Loop 410 onto 151 North. While on 410 I heard on the radio that West Patrol was being dispatched to the suspect's home. The suspect vehicle continued on 151 until he exited Military drive. He then made a left on Military crossing over 151. The suspect vehicle ran the red light on Military and I briefly waited for the red light because it turned green shortly after the suspect ran it. The suspect continued west on Military and then turned left on Rousseau Rd then another left on Deepwater. Once on Deepwater he drove to the end of the cul de sac where he stopped in front of his driveway. I then pulled up as Officer Galvan and Preston were at the suspect's driver side door yelling for him to exit the vehicle. Guns were drawn by Galvan and Preston and I also had my gun drawn as I approached from the passenger's side along with a k-9 unit. I was watching both the passenger side and the suspect's front door to his home until the k-9 Officer told me he had the front door. As I looked in the suspect vehicle I noticed that he had reached down and unlocked the doors after being told repeatedly by Officer's Galvan and Preston. I then went around the rear of the vehicle to the driver's side and saw Officer Preston and Galvan struggling to subdue the driver on the ground.

At this point a second k-9 unit came up and ran past me and he also began to struggle with the suspect. The suspect then got up and ran towards his front door. The Officer's chased him to the front door as the k-9 Officer with the dog on the leash also chased him. The Officer's continued to fight with the suspect at the front door of his home and he again broke free and ran towards a neighbor's house. He attempted to kick in the front door of a red brick two story home. Again the Officer's began to struggle with him on the front porch area of this home. The suspect then broke away and ran back towards his home through the cars parked in the driveway of his home. As he approached the front door of his home, I ran to catch up to him and then grabbed him in a bear hug. We then fell towards the front storm door shattering the glass. The main door to the home was closed. This is when an Officer started swinging an

Signature

 265

Sworn to and subscribed before me this 4th day of August A.D., 2011.

 #2058
Peace Officer

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Num: 11-195919
Date and Tim: 8/4/2011 10:07 AM
Taken by: Det. M. De Leon #2058

Page 3 of 3

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Michael Fletcher who being by me duly sworn upon his/her oath deposes and says:

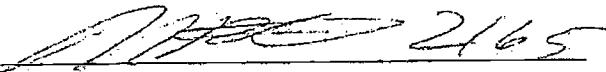
ASP baton and struck my left hand multiple times as I was holding the suspect near the left lower backside. This immediately took me out of the fight. As I backed up the suspect broke away and ran to another neighbor's home with Officer's still attempting to take control.

I followed behind the Officer's and I could hear his mother and another female yelling "What are yall doing to my boy" from her front door. I then directed my attention towards them advising them to get back in the house. They then went back inside and I re directed my attention to the suspect and the Officer's who were still struggling to take control. The Officer's and the suspect had fallen in the bushes. At this point the suspect had one handcuff on his right arm. The suspect still would not give the Officer's his hands so they began to taze him. I heard one Officer say "watch out he has my cuff". They continued to struggle with the suspect until they were able to get him handcuffed. After the suspect was handcuffed they pulled him out the bushes that they had been fighting in and the suspect was laying face down in a neighbor's front yard. Captain C. Anderson then walked up and checked on the Officer's. I then walked away to request EMS, the wagon, and a supervisor make the location. I then returned back to the suspect and noticed there were other Officer's there. One of the Officer's suggested we roll the suspect on his side. Once the suspect was rolled over onto his left side, I could see that he was still breathing because his stomach was moving up and down with each respiration. EMS was on scene by this time so I walked away to find some tape to remove glass from my face. Sgt. Waters and Captain Anderson were asking for an Officer to take Officer Preston to the hospital. I needed to get my hand looked at, so I volunteered to take him. We both left together at this point and I drove him to the Christus Santa Rosa Hospital on 151. Hospital staff took our info and Preston was seen first and I waited in the ER. I was then taken to a separate ER room, where I was treated and x-rays were taken. Officer Armstrong then escorted me to the Homicide Office where I submitted my statement.

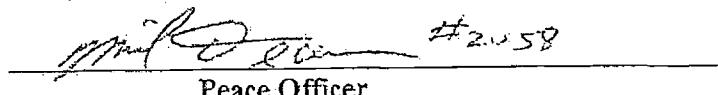
No one has promised me anything for my statement and everything I told Det. M. De Leon #2058 in this statement is the truth. I have signed this statement because everything is true and correct. This incident occurred in San Antonio, Bexar County Texas.

//////////////////END STATEMENT//////////////////

Signature



Sworn to and subscribed before me this 4th day of August A.D., 2011.



#2058

Peace Officer

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Number: SAPD11195919
Date and Time: 08/04/11 0619
Taken by : DET. R. Hines #2358

Page 1 of 3

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Officer M. Flores #0189 who being by me duly sworn upon his/her oath deposes and says:

My name is Officer Matthew Flores. My badge number is 0189. I am assigned to West Patrol C Shift. My days off are Monday and Tuesday.

I reported for work on Wednesday, August 3rd at 2230 hours. I was assigned to work 5362C. I was assigned to patrol in a marked patrol car that is equipped with emergency lights, siren, and full San Antonio Police decals. My patrol car was one of the black and white cars. I was armed with my city issued Glock model 22. I had 16 rounds in my gun and I had two magazines loaded with 15 rounds each. I was also armed with my Taser. I was certified to carry a Taser around April of 2011 but I am not sure of the date. I was dispatched to a call at the Red Roof Inn at Alamo Downs and 410 for a male trying break into soda machines. I responded to that call with Officer Diaz #0879. We handled that call and we didn't find anyone. An N-Code was placed on that call. After that call was complete I heard the dispatcher put out over the radio that traffic had a vehicle pursuit that was travelling southbound on Loop 410. I saw a dark SUV like an Explorer travelling southbound on 410. I saw several patrol vehicles behind the dark SUV. I, along with Officer Diaz drove northbound on Loop 410 Access Road and we took the turn around at Ingram Rd. We drove southbound on 410 and I saw Eagle flying like they were going westbound on State Hwy. 151. I was driving a long distance behind the pursuit and my purpose for being there was to assist on a quadrant in case the suspect started running. I was never involved in the pursuit. I saw the suspect vehicle and the patrol cars that were pursuing the suspect vehicle turn on 151 Westbound. I continued to monitor the pursuit from a distance. As the pursuit continued I saw the suspect vehicle and the patrol cars turn left on Military Drive. I continued following the pursuit from a distance. I saw the suspect vehicle and the patrol cars turn left on Rousseau. I could see that the suspect vehicle didn't come to a complete stop at the intersection of Rousseau and Military. After the suspect vehicle turned onto Rousseau the suspect vehicle then turned left on Deepwater Bay. I saw several patrol cars turn onto Deepwater Bay so I decided to go into the woods just north of Deepwater Bay. I went into the woods about 150 yards. I did this in order to set up a quadrant. From the woods I could hear officers giving commands. I could not tell if they were chasing the suspect or if the officers were fighting with the suspect. I heard the dispatcher put out an E-tone for officer in trouble. I don't remember the dispatcher's exact words but she did say traffic officers were fighting with one. I knew it was the officers that were on this pursuit that I had been assisting on. At

Signature

Peace Officer

Sworn to and subscribed before me, Randal Hines, a peace officer in the State of Texas and pursuant to No. 602.002, Texas Government Code, on this 3rd day of August, A.D., 2011.

EXHIBIT "D-12"

DOCUMENT # 8-3
COSA 000120

STATE OF TEXAS §
COUNTY OF BEXAR §

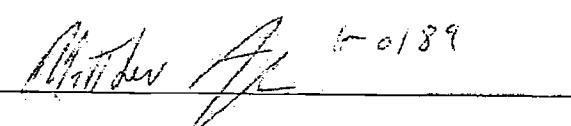
Case Number: SAPD11195919
Date and Time: 08/04/11 0619
Taken by : DET. R. Hines #2358

Page 2 of 3

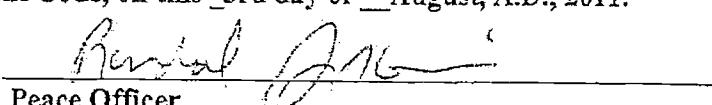
BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Officer M. Flores #0189 who being by me duly sworn upon his/her oath deposes and says:

that time I decided to return to my patrol car and go to the location on Deepwater Bay. I ran out towards Military Drive and I heard a patrol car coming. I saw a patrol car about 150 yards away from me on Military Drive. I waved the officer down so he could give me a ride to the scene of the officers in trouble. This car turned out to be Officer Diaz. I told Officer Diaz to give me a ride to the scene and I jumped in the back seat of his patrol car. Officer Diaz let down the window so I would be able to get out of the car when we arrived at the scene. Officer Diaz drove to Rousseau then he went left on Deep Water Bay. Officer Diaz stopped and I ran towards the commotion. I believe the house where everything was happening was a two story house. When I got to where the officers were they were in the front yard near a bush. I could see several people yelling and I assumed that these were family members of the suspect. The suspect was a large Black male, heavy set with a dark complexion. I would say he weighed about 240-250. He was wearing basketball shorts and a muscle shirt. I am not exactly sure about the clothing. There were already about 4 or 5 officers struggling with the suspect. I could hear the officers giving the suspect several commands and the suspect was not complying. The suspect's left arm was under his body. I believe one officer had his right arm. Since there were already officers trying to handcuff the suspect I believed that I would be able to help better with crowd control. There were what appeared to be family members yelling at the officers from a distance but I could not tell what they were saying. I was controlling the crowd and I would periodically look over my shoulder and I could see that the officers were still struggling with the suspect. The suspect was not responding to any commands at all, I don't recall the suspect saying anything. I could see that this suspect was being very difficult to control and officers were not having any success with getting his left arm from under his body. The officers who were struggling with the suspect appeared to be very fatigued and they had been struggling with the suspect for several minutes. I heard an officer say that he had already deployed his Taser and it had not effect on the suspect. I decided that I would use my Taser on the suspect. This action was necessary to prevent this prolonged struggle and to prevent the suspect and the officers from potential serious injuries. I believed that a suspect that was able to keep 5 officers from getting his left arm from under his stomach was definitely a danger to all the officers present. I didn't want the suspect to get any of the officer's guns or other weapons. I went to the officers and the suspect. I told the officers who were struggling with the suspect that I was about to deploy my Taser. I just said "Watch out, I am going to Taze him". I didn't yell "Taser, Taser, Taser". All the officers just moved back to make room to use my Taser. I leaned in very

Signature


Randal Hines 8-0189

Sworn to and subscribed before me, Randal Hines, a peace officer in the State of Texas and pursuant to No. 602.002, Texas Government Code, on this 3rd day of August, A.D., 2011.


Peace Officer

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Number: SAPD11195919
Date and Time: 08/04/11 0619
Taken by : DET. R. Hines #2358

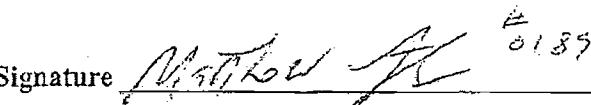
Page 3 of 3

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Officer M. Flores #0189 who being by me duly sworn upon his/her oath deposes and says:

close to the suspect and I put the Taser on the left side of the suspect's back. I deployed the Taser and I shocked the suspect for the five seconds. I stood up and the probes from the Taser stayed in the suspect's back. When I deployed the Taser the suspect relaxed his left arm and an officer grabbed his left arm. I thought the officer had control of the suspect's arms but as I stopped the shock of the Taser the suspect reached for the probes that were in his back. The suspect's hands got tangled in the wires. When I saw this happened I moved in close to the suspect to do a "dry stun". When I did this "dry stun" I saw an arc pop up between the handcuffs. I immediately stopped the Taser because I didn't want to shock an officer. The officers were finally able to get the suspect handcuffed. We got the suspect and pivoted him on his knees then laid him on his stomach. The suspect's head was now facing Rousseau. We basically moved him to get him out of the thorn bush. When we moved the suspect I noticed that he had an injury on his right buttocks. I also saw a K-9 Officer there controlling his dog and the dog was barking. I didn't see the dog bite the suspect. I can only assume that the suspect was bitten before I arrived at the scene. I heard an officer call for EMS because the suspect had been Tased. The suspect was still on the ground and he kept struggling by moving his hands and violently thrashing his body. All of a sudden the suspect stopped fighting. I was holding my flashlight on the suspect to provide the other officers with light. I kept asking Officer Diaz if the suspect was breathing. Officer Diaz told me that the suspect was breathing. I checked the suspect's pulse and he had a pulse and appeared to be breathing. All the other officers around said that the suspect was still breathing. The suspect then looked like he may have stopped breathing. I went to check the suspect's pulse again and I got no pulse. Officer Diaz went to get EMS because EMS was already there assessing the situation and treating officers who were possibly injured. EMS came to the suspect and they asked us to remove his handcuffs. Officer Diaz removed the suspect's handcuffs. EMS asked us if any of us were Tactical Medics we told them that we were not Tactical Medics but I offered my assistance to them. EMS asked me to start chest compressions on the suspect. I did 30-40 chest compressions on the suspect then I was relieved by someone from EMS. After the other EMS personnel arrived I just assisted by holding my flashlight on them to assist them with lighting. I stood by at the scene and awaited the arrival of supervisory personnel.

Everything I have told Detective Hines is true. This is the end of my statement.

Signature


Randal Hines
#0189

Sworn to and subscribed before me, Randal Hines, a peace officer in the State of Texas and pursuant to No. 602.002, Texas Government Code, on this 3rd day of August, A.D., 2011.

Peace Officer

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Number SAPD11195919
Date and Time: 08-04-2011 / 0830 hrs
Taken by: Detective Adam Zeldes

Page 1 of 2

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Matthew Quintanilla who being by me duly sworn upon his/her oath deposes and says:

My name is Matthew Quintanilla. I am 30 years old and I have been a San Antonio Police Officer for almost 3 years. My badge number is 1607. I am currently assigned to West Patrol "C" shift.

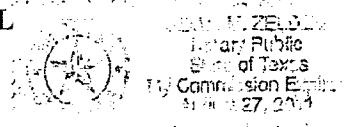
On 08-04-2011, at approximately 0326 hours I was on-duty in my marked San Antonio Police Department Patrol vehicle in full police uniform, to include badge, patches, and Sam brown. I was parked in a parking lot at Marbach and Loop 410 talking with Officer M. Alaniz #1074 in his car. The dispatcher advised us that Traffic had a chase and it was coming into West Patrol. The dispatcher stated that the chase was by Ingram. A few minutes went by and the dispatcher advised me and Officer Alaniz to go to an address off of Hunt Lane. I believe it was 3118 Hunt Lane. The dispatcher told us that the license plate of the vehicle that was being chased came back to that address. The dispatcher told us that there were enough officers in the chase and not to get into it. I followed Officer Alaniz to the address. We got there and were waiting. The dispatcher got on the radio and advised us that the chase was now on Hwy 151 on the access road. I think it was about a minute that went by when the dispatcher got back on the radio and said the chase has now turned left onto Military from Hwy 151. We were a ways off from that location. I told Alaniz that they were not going to come up this way, so we started to head toward Military. Some time goes by and the dispatcher stated that the chase was turning on Rousseau from Military heading south. We were still on Hunt Lane around Potranco. The dispatcher stated that they were now turning on Deep Water Bay and were in the cul-de-sac. I was still behind Officer Alaniz. We got to Potranco around Fillmore when the Traffic Dispatcher toned out the officers and said they were still fighting with the guy. We picked up speed a little. The West Dispatcher came over and said, "let me know when the first officer is out." I told her that we would be there in a second. We had just turned onto Rousseau. We turned onto Deep Water Bay I could see the lights in the cul-de-sac.

I got out of my vehicle. I thought the fight was going to already be over. I then heard someone yelling, "stop fighting, stop fighting." I don't know who said it. I ran toward where the officers were. Officer Alaniz went toward a bunch of civilians that were standing there. The first thing I observed was Officer Preston on the ground on all fours holding his hand. He said his hand was broke and told me to go help them. Officer Preston was at the front of the driveway. The fight was going on right in front of the doorway on the grass not on the concrete. Someone stated, "help, help, we're tired, we have been fighting for awhile." I don't know who the officer was. I then reached up and grabbed the hand that had the one handcuff on it. It was his right hand. I heard someone say, "roll him over he is laying on his other arm." I

Signature Matthew Adam Zeldes

Sworn to and subscribed before me this 4th day of August, A.D., 2011.

SEAL



Notary Public in and for Bexar County, Texas

EXHIBIT "D-15"

DOCUMENT # 8-8 COSA
000143

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Num. SAPD11195919
Date and Time: 08-04-2011 / 0830 hrs
Taken by : Detective Adam Zeldes

Page 2 of 2

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Matthew Quintanilla who being by me duly sworn upon his/her oath deposes and says:

don't know who said it. I then heard someone say, "grab his feet and help me flip him over." The whole time the guy kept trying to get away and kept fighting with us. I had a hold of the handcuffed hand and the guy kept trying to pull away. Another officer took control of the handcuffed right hand and I let go of his arm and grabbed his leg to pull him to flip him over. The whole time the guy kept holding his unhandcuffed arm against his body. We crossed his legs and I put my knee on top of his legs to hold him down. I then heard Officer Matt Flores say he was going to "Tase" him. I then heard, "Taser, Taser." I then saw Officer Flores shoot the Taser at the guy hitting him in his lower back just above his buttocks. This was the first time I saw anyone use a Taser on the guy. The probes were in the guys back. The guy stopped fighting during the first cycle. I don't know who the officer was but someone grabbed the guys arm and started to bring it back to put the handcuffs on. The guys arm got hung up in the wires and one of the probes came out. The guy then started to pull his arm back so Officer Flores went to start a second cycle. The probe was out so the Taser wasn't working properly. The guy then started kicking his feet and he kicked me off of him. Someone else was able to get the guys arm back and get him handcuffed. I guess he was still feeling some of the effects of the current. I got up off the ground and saw that the guy was handcuffed. As far as I was concerned it was over. I then went to where Officer Alaniz was holding back the family and I helped him. The Sgts and everyone else started arriving.

The only person that I saw use a Taser was Officer Flores. After everything was over I did hear one of the Traffic Officers say that they had Tased the guy prior to me getting there. I did not see any other force being used. After the guy was handcuffed and I walked away I did not see him again. I later assisted in securing the crime scene.

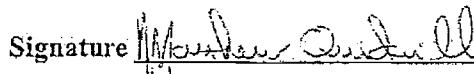
I did not use my Taser. Detective Zeldes checked and I have both of my Taser cartridges. The only force that I used was holding the guys handcuffed hand and holding his legs.

The guy that I assisted with that was fighting with the officers was a black male, heavy set, wearing just boxers and socks. I was down there by his feet. I can't remember if he was wearing a shirt or not.

Everything in this statement is what I told Detective Zeldes and is true and correct. This incident occurred in San Antonio, Bexar County Texas.

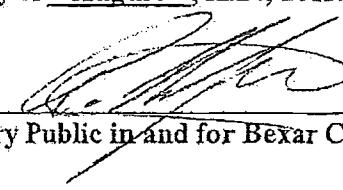
//////////////////////////////END STATEMENT//////////////////////////////

Signature



Sworn to and subscribed before me this 4th day of August, A.D., 2011.

SEAL



Notary Public in and for Bexar County, Texas

STATE OF TEXAS:

STATEMENT TAKEN BY: Det. J.Rivera#2232

CASE NUMBER: SAPD11195919

DATE: 08-04-2011 TIME: 0850 hours

WHERE TAKEN: 214 Nueva W.

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Robert Tamez, who being by me first duly sworn upon his oath and says:

***** Statement *****

My name is Robert Tamez, and I am 34 years old. I am a San Antonio Police Officer assigned to the K-unit. I have been on the Police Department for ten and a half years. I was on duty in a distinctively marked Police vehicle and in full distinctive uniform.

I am here speaking to Det. Rivera about the incident that happened this morning on the west side. Officer Paul Trigo and I were on duty at Dezavala and I.H. 10 at a Target store looking for burglary suspects. We monitor the Traffic channel and we heard that Traffic had a chase going on I.H. 10 with the suspect going the wrong direction on the access road. K-9 was requested so both of us responded by going northbound on I.10 until we got to La Canterra where we turned left and started going toward 1604. The suspect got on the 1604 access road and he pulled into a gas station. The officers were still behind him so he went around the officers and got back on 1604 going towards I.H. 10 again. He stayed on the access road of I.H. 10 then he got back on I.H. 10 going southbound. He then went 410 west and exited at Hwy. 151 to Military road. At Military he did not stop at the red light. He then went westbound on Military and he took another left on another street but I don't know the name of the street. He pulled into a driveway at a residence and just sat in the car. The Officers went up to the car on the drivers' side while Det. Fletcher and I went to the passenger side of the car. I could hear the Officers ordering the suspect out of the car but he refused to comply with the Officers orders. The officers finally removed him from the car and he began struggling with the officers. I heard the struggling so I went to assist the officers. I saw the suspect stand up, start swinging at the officers and was tased, then he ran to the front door of the house. He ran into the storm door causing it to shatter. Off. Trigo grabbed him and he started swinging at him he breaks contact and he ran to the neighbors' house. He pulled the storm door open and tried to force his way into the house. I gave him several commands to get down and he ignored all of them. I grabbed him on his right shoulder trying to pull him away from the door. That is when he balled up his fist and thinking he was going to hit me, I struck him twice with my asp. I struck him on his right shoulder and he went to the ground. I grabbed his right hand that already had a handcuff on it and tried to manipulate it to his back so he could be handcuffed. He pulled away and he was tased again. He got up, pulled the probes out and started running back in the direction of his car. I heard one of the Officers request the dog so me and Off. Plauche went to our vehicles to get our dogs. Off. Plauche got his dog first so I went back to help the Officers that were still chasing the suspect. As he was running I saw off. Plauche's dog make contact with suspects' leg or buttocks. He took the dog off so I went and got my dog. I could hear the dog make contact with the suspect again and he went down. I could hear the officers still struggling to restrain the suspect and could hear countless times commands for him to stop resisting. I ran to help the Officers that were struggling with the suspect. I grabbed his right hand, the one that had the handcuff on it and tried to manipulate it back behind his back. At this point I felt him grab my right leg and start moving up towards my holster. I yelled at the other Officers, "he has my leg". I thought he was reaching for my weapon so I struck him twice with a closed fist to his face. He let go of

Signature

sworn to and subscribed before me this 4th day of Aug. 2011

Witness

EXHIBIT "D-17" DOCUMENT #

8 COSA
000102

STATE OF TEXAS:

STATEMENT TAKEN BY: Det. J.Rivera#2232

CASE NUMBER: SAPD11195919

DATE: 08-04-2011 TIME: 0850hours

WHERE TAKEN: 214 Nueva W.

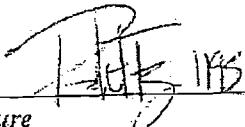
BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Robert Tamez, who being by me first duly sworn upon his oath and says:

my leg and I grabbed the handcuff on his right arm with my right hand to prevent him from using it against us. I heard someone say "taser" and they tased him again.

I could see him trying to pull the probes out again, and they again tased him. I myself felt the shock from the taser. As he was attempting to pull the probes out, we managed to get his left hand behind his back and he is finally handcuffed. I got up and noticed my left hand was covered in blood so I went to a water hose and rinsed off the blood. I could still hear the suspect yelling and screaming at Officers. After getting the blood off of me, I went and helped in holding the suspect down by holding one of his legs. Once the suspect stopped struggling I got up. Once we all got up I could see that the suspect was still breathing. When EMS arrived I used their Peroxide and spray my hands off with it. I suffered a small cut to my right hand ring finger and a small cut to my left hand index finger.

No one has threatened me or promised me anything for my statement and everything I told Detective Rivera #2232 in this statement is the truth. I have signed this statement because everything is true and correct. This incident occurred in San Antonio, Bexar County Texas.

***** End of Statement ***


Signature

2011

... sworn to and subscribed before me this 4th day of Aug.

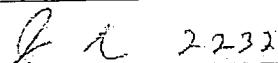

Witness

EXHIBIT "D-18"

COSA
000137

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Num: SAPD11195919
Date and Time: 08/04/11 1000
Taken by: DET. R. Hines #2358

Page 1 of 3

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Officer P. Trigo #1536 who being by me duly sworn upon his/her oath deposes and says:

My name is Officer Paul Trigo. My badge number is 1536. I am assigned to Police K-9. My days off are Sunday, Monday and Tuesday.

I reported for work on Wednesday, August 3rd at 2000 hours. I was assigned to work 2891. I was assigned to work in a marked Ford Expedition that is equipped with emergency lights, siren, and full San Antonio Police decals. I was armed with my city issued Glock model 22. I had 16 rounds in my gun and I had two magazines loaded with 15 rounds each. I monitor the Traffic Channel 2-A. I was at IH10 at DeZavala finishing up with assisting another K-9 Officer. I heard the dispatcher put out that there was a pursuit starting and that the pursuit was at IH10 and LaCantera. Officers in the pursuit requested the assistance of K-9 and Blue Eagle. I learned that the pursuit was a slow moving pursuit and the officers were anticipating that the suspect was looking for a place to run from his vehicle. I drove to IH10 and La Cantera and went westbound on La Cantera because that was the last known location for the pursuit. I drove down La Cantera and as I was approaching Loop 1604 I saw the officer's lights in the distance. They turned westbound on 1604 Access Road. I maintained my distance because I could not get into the pursuit. The pursuit went back north towards UTSA BLVD. and the suspect vehicle went into a convenience store. The suspect vehicle was a black SUV that looked like an Explorer. The suspect vehicle just went through the parking lot and got back on 1604. The suspect vehicle did a turn around and went back northbound on 1604. We got on northbound 1604 and the suspect went eastbound on IH10. The suspect went to Loop 410 and took the westbound exit. I continued to monitor the pursuit from a distance. From westbound Loop 410 the suspect took the Hwy 151 exit and went westbound. The suspect vehicle kept going on 151 and exited Military Drive and turned southbound on Military. From Military the suspect went to Rousseau and then he turned eastbound and went back northbound on Deep Water Bay. I saw a dead end sign on Deep Water Bay. I caught up to the officers who were in the pursuit. The suspect vehicle parked partially in a driveway. I don't know if the suspect or the officers opened the driver's door of the suspect vehicle but the door was open. The officers were giving the suspect commands to show his hands and get out of the vehicle. The suspect was not complying with the officer's commands. The suspect was trying to talk on his phone and he would not give the officers his hand. The officers pulled the suspect out of the vehicle. The suspect was about 5'8" tall and he weighed about 240 pounds. He was a black male and he was wearing dark shirt and dark shorts. That is what I remember.

Signature R. Trigo 1536

Sworn to and subscribed before me, Randal Hines, a peace officer in the State of Texas and pursuant to No. 602.002, Texas Government Code, on this 4th day of August, A.D., 2011.

Peace Officer Randal Hines

EXHIBIT "D-19" DOCUMENT # 8-7 COSA 000739

STATE OF TEXAS §
COUNTY OF BEXAR §

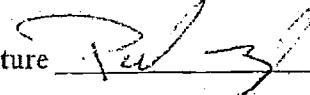
Case Num: SAPD11195919
Date and Time: 08/04/11 1000
Taken by : DET. R. Hines #2358

Page 2 of 3

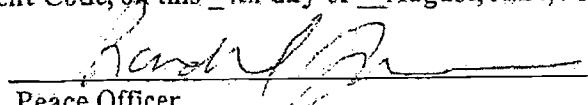
BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Officer P. Trigo #1536 who being by me duly sworn upon his/her oath deposes and says:

The officer tried to take the suspect to the ground. They were doing this on the sidewalk just outside the vehicle. I believe that Officer Preston got a handcuff on the suspect. I could hear Officer Preston telling the suspect to stop fighting and resisting and to give him the other hand. I was watching the house that the suspect drove to because I didn't want family to come out and attempt to interfere with the arrest. After several attempts to get the suspect handcuffed the officers were not having any success at handcuffing him. I went to help the officers and put my hands on the suspect's back to try to pin him down. I don't know exactly how the suspect got to the ground but I know that he was on the ground. The suspect kept fighting and he was using his free arm to try to push up off of the ground. With three officers on him we couldn't get him under control. I heard an officer say "stop resisting or I will Taze you". I heard the officers say that they were going to Taze the suspect so I let the suspect go. The suspect was Tazed and the Tazer had no effect on him. It seemed like it had the opposite effect on him. The suspect muscled his way back up to his feet after he was Tazered the first time. The suspect ran towards the front door of the house where he had parked his car. The suspect broke the outer glass door and he was stopped by a wooden door. The suspect was trying to get to the door knob and was trying to make entry into the house. I chased after him while giving him commands to stop. I didn't know if the suspect lived at this house so I gave him another command to stop. I pulled my ASP out and gave the suspect more commands to stop. The suspect refused to comply and kept trying to make entry into the house. I struck the suspect on the upper right shoulder with my ASP two times. I, along with several other officers kept telling the suspect to get down on the ground. The suspect turned and pushed past me and the other officers and ran towards another house. When he got to the other house he tried to make entry into their front door. I still had my ASP out and I kept telling the suspect to get on the ground and I struck him with my ASP two more times. He still refused to comply with my commands. He pushed past me and kept running like he wanted to go back to the other house he was first at. I believe that he was Tazed again as he was trying to run. He turned and ran towards the street and at this time Tony Plauche deployed his dog. The dog made contact with the suspect's upper leg area. I can't remember which leg it was. With the dog biting him the suspect kept running. It looked like he was going to the house across the street but he made a sharp left turn. Several officers were still pursuing the suspect and giving him commands to stop. The suspect fell into the flower bed. Officers got on top of the suspect and tried to control him and tried to get his hands to his

Signature

 1536

Sworn to and subscribed before me, Randal Hines, a peace officer in the State of Texas and pursuant to No. 602.002, Texas Government Code, on this 4th day of August, A.D., 2011.


Peace Officer

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Number : SAPD11195919

Date and Time: 08/04/11 1000

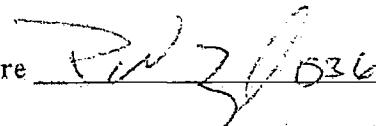
Taken by : DET. R. Hines #2358

Page 3 of 3

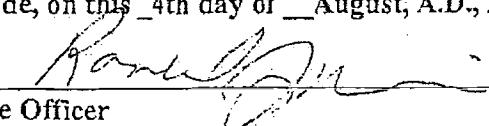
BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Officer P. Trigo #1536 who being by me duly sworn upon his/her oath deposes and says:

sides. The suspect kept resisting and he would not let the officers handcuff him. I saw the suspect's right hand with the handcuff on it. I grabbed the handcuff to control it. I was holding the handcuff while the other officers were trying to get his left hand behind him. The suspect was still resisting by pulling his arms away kicking violently. I tried to maintain control of the right hand while several other officers kept trying to get the suspect's left hand. I saw the suspect's rib cage on his right side and I started punching him to try to knock the wind out of him. The punches had no effect on the suspect. I started to get tired of struggling with the suspect. Another officer took the handcuff because he saw that I was tired. I got up and caught my breath. The suspect was still resisting violently. I kicked his left thigh several times trying to stun him. The kicks had no effect on him. Officer Flores deployed his Tazer and gave the suspect more commands and warned the suspect that he would be Tazed. The suspect continued resisting so I backed off and he was Tazed by Officer Flores. The officers got control of the suspect's other hand. They were able to get his hand behind his back and get him handcuffed. The suspect kept on kicking and trying to get to his feet. He was yelling and screaming. The suspect was still using his feet as a weapon and I got his feet and held him down by his feet to try to control him. We were there for a few minutes on the ground. It seemed that the suspect had calmed down and he was still calling out to his family members. I got up from the ground after I felt the suspect was not resisting any more. I waited for EMS and I was checking on other officers. I went back towards where the family members were to try to assist with crowd control. I didn't witness the suspect stop breathing. I don't know what happened there.

Everything I have told Detective Hines is true. This is the end of my statement.

Signature 

Sworn to and subscribed before me, Randal Hines, a peace officer in the State of Texas and pursuant to No. 602.002, Texas Government Code, on this 4th day of August, A.D., 2011.


Peace Officer

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Num: : SAPD11195919
Date and Time: 08/04/11 0845
Taken by : DET. R. Hines #2358

Page 1 of 2

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Officer V. Diaz #0879 who being by me duly sworn upon his/her oath deposes and says:

My name is Officer Vidal Diaz. My badge number is 0879. I am assigned to West Patrol C Shift. My days off are Monday and Tuesday.

I reported for work on Wednesday, August 3rd at 2230 hours. I was assigned to work 5342C. I was assigned to patrol in a marked patrol car that is equipped with emergency lights, siren, and full San Antonio Police decals. My patrol car was one of the black and white cars. I was armed with my city issued Glock model 22. I had 16 rounds in my gun and I had two magazines loaded with 15 rounds each. I was dispatched to a call at the Red Roof Inn at Alamo Downs and 410 for a male trying break into soda machines. I responded to that call with Officer M. Flores #0189. We handled that call and we didn't find anyone. An N-Code was placed on that call. After that call was complete I heard the dispatcher put out over the radio that Traffic had a vehicle pursuit that was travelling southbound on Loop 410. I didn't see the suspect vehicle on Loop 410 but I saw several patrol cars and Blue Eagle. I drove northbound on the Access Road of Loop 410 and took the turnaround at Ingram Rd. Officer Flores was driving in front of me. We drove southbound on 410 and I saw Eagle flying like they were going westbound on State Hwy. 151. I was driving a long distance behind the pursuit and my purpose for being there was to assist on a quadrant in case the suspect started running. When the pursuit went in the main lanes of Hwy. 151 I stayed on the access road of Hwy. 151. I continued to monitor the pursuit from a distance. The pursuit was not going very fast at all. I saw the patrol cars exit Military Drive and turn left. I made a left turn onto Military Drive. I followed the pursuit on Military Drive and I saw the pursuit turn left onto Rousseau. The dispatcher told me to stay on Military Drive because the suspect had turned into a Cul-De-Sac. I parked my car on Military Drive and I went with Officer Flores into the woods. Officer Flores went to one area and I went to another area. I was listening for any signs of the suspect running out of the woods or jumping fences or anything like that. While I was waiting the dispatcher called me and Officer Flores by our call signs and told us to make the location of Deep Water Bay because the traffic officers were not responding to their radios. I started driving south on Military and I picked up Officer Flores. Officer Flores got into the back seat of my patrol car. We arrived on Deep Water Bay. I saw several officers at a house struggling with a black male. The black male was wearing white shorts and he was on the ground in a flower bed. He was a large black male. He probably weighed about 250 pounds. I would say that around three officers were struggling with the black male. I saw that one officer already had the suspect's right

Signature Randal Hines 879

Sworn to and subscribed before me, Randal Hines, a peace officer in the State of Texas and pursuant to No. 602.002, Texas Government Code, on this 3rd day of August, A.D., 2011.

Randal Hines
Peace Officer
EXHIBIT "D-22"

DOCUMENT # 8-9
COSA
000145

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Numt : SAPD11195919
Date and Time: 08/04/11 0845
Taken by : DET. R. Hines #2358

Page 2 of 2

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Officer V. Diaz #0879 who being by me duly sworn upon his/her oath deposes and says:

arm in a handcuff. The handcuff was on the suspect but the suspect was still moving his arm back and forth violently. The officer didn't have control of the suspect's right arm. The suspect's left arm was underneath his body. I went to the suspect and I started trying to get the suspect's left arm behind his back. I could see that all the other officers there were very tired from struggling with the suspect. I was trying to pull the suspect's left arm and he was able to pull my arms back under his body. He was very strong. I could only hear the suspect saying "I'm over here". The suspect didn't say anything to me directly. I heard an officer yell "Taser, Taser, Taser". I continued to hold the suspect's left arm. The suspect was still pulling away from me violently. I know that I am ok around the Taser as long as I don't go between the prongs. I heard the Taser deploy and I could see the prongs in the suspect's back. I could hear the Taser being used. The suspect went limp and I was able to get his left arm back behind him. Once I got the left arm behind him the suspect suddenly grabbed for the prongs that were in his back. I felt some little jolts from the Taser at that time. The suspect then started pulling me back towards him again. I could feel the Taser going off again. I was then able to get the suspect's left arm all the way back and another officer handcuffed him. Once he was handcuffed he was facing down and I rolled him over and laid him on his back and got him out of the flower bed. Once I rolled him over I rotated his body to put him on his side. The suspect was breathing and the breathing was very loud. The other officers started walking away because they were very tired. Officer Flores and I stayed with the suspect. As time went by the suspect's breathing got quieter. I could see his belly moving so I knew he was breathing. I continued to look at him to monitor his breathing by rolling him over to his side and making sure he was not on his stomach. As the suspect's breathing got quieter I had my hand on his back and he was still breathing. I assumed that the suspect was just calming down. I noticed that the suspect stopped breathing and I immediately told the other officers that he had stopped breathing and I asked for the EMS personnel to come look at the suspect. EMS asked me to remove the suspect's handcuffs and roll him over. EMS asked for one of us to assist with CPR. Officer Flores started doing chest compressions and I held my flashlight. EMS asked me to get a time check and asked me to remember the time. The only force that I witnessed was the use of the Taser. I didn't see the suspect get bitten by K-9 and I didn't see anyone hit him with an ASP. The injuries I saw on the suspect were swelling to the right eye and some type of injury to his buttocks.

Everything I have told Detective Hines is true. This is the end of my statement.

Signature Randal Hines 879

Sworn to and subscribed before me, Randal Hines, a peace officer in the State of Texas and pursuant to No. 602.002, Texas Government Code, on this 3rd day of August, A.D., 2011.

Randal Hines
Peace Officer

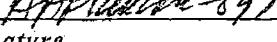
STATE OF TEXAS:

STATEMENT TAKEN BY: Ricky D. Lopez #2021
CASE NUMBER: 5-13-cv-00700-RCL
WHERE TAKEN: 214 W. Nueces

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Aubrey Plauche #0891, who being by me first duly sworn upon her oath and says:

My name is Aubrey Plauche and I am currently employed by the City of San Antonio as a police officer, bad #0891. I am assigned to the K-9 Unit and I am the handler for "Ivo". I read, write, speak and understand English language.

I am here to talk to Det. Lopez concerning the incident that occurred at 10807 Deepwater Bay. Myself and another handler, Roy Rodriguez #1417 were on break at Ashby and McCullough and we heard a traffic officer say on the radio that he had a wrong way driver that was not stopping. We started heading out I-10 towards La Cantera towards the incident. The suspect ended up getting on I-10 East bound and I exited DeZavala and took the turn-around. We waited until we saw the pursuit go by us. The officers were following some sort of SUV. Me and Rodriguez got onto the freeway behind the pursuit and straddled the lanes on the highway to keep the civilian cars from passing us and getting into the chase. The chase was at times traveling slower than the speed limit. I remember one of the traffic officers saying on the radio that he had a camera and he asked if he could get into the pursuit. The officer passed us and went up ahead to get the camera into the pursuit. We stayed in the background following the chase. The suspect exited at around 151/Military off Loop 410. He started going outbound and we took W. Military heading towards 1604, then south on Rousseau and left on Deepwater Bay. As we got down that street, it was a narrow street and it appeared as if we were in single file. Two other K-9 officers were in front of us, Trigo and Tamez. They pulled off to the right of the cul-de-sac. I stopped my vehicle where the curve of the cul-de-sac began and could see straight down the sidewalk where the suspect had pulled into the driveway. He looked like he had the left front wheel in the driveway and the rear wheels were still in the street. I was looking at the driver's door. The suspect opened the driver door and he was still seated, but his feet were out of the vehicle. He looked like he was facing the rear of the vehicle and he had his hands up. He was saying something to the officer's, but I couldn't understand him. The officers were yelling routine commands to "get out of the vehicle, let me see your hands, get on the ground". The officers were saying this over and over again. I saw an officer with a Taser pointed at the guy because I could see a red dot on the suspect. He was a few feet from the actor and directly in front of him. Another officer also was approaching, keeping the suspect in kind of a triangle. The suspect had his hands up about shoulder height and it looked like he was complying with the officers and that it was under control because he had gotten out of the car and onto his knees. I started walking down the sidewalk towards them and was not in a hurry because it looked like it was under control. As I approached the officers were still giving commands to the suspect but he would not comply further with the officers. It was obvious that he wasn't going to go any further to the ground at this time and was not going to comply with the officers. It looked like nothing was getting through to him. Officers started walking up from my peripheral on the right side and two officers approached the suspect and got him by his wrist to get him handcuffed. It looked like the officers grabbed him at the same time. They tried to push him to the ground and they got his right hand behind him fairly quickly. The suspect didn't want to go to the ground was twisting to his right and he was keeping his left forearm flat on the ground. It looked like he was still trying to get up and he didn't want to go to the ground. It still didn't look like it was going to be that big of a deal and I was by his head facing him and grabbed his left wrist to try to rotate and bend it to get behind his


Signature

Sworn to and subscribed before me this 04th day of August, AD 2011

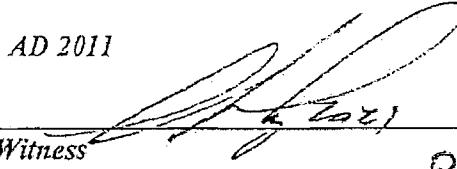

Witness

EXHIBIT "D-24"

DOCUMENT # 8-5
000132

STATE OF TEXAS:

STATEMENT TAKEN BY: Ricky D. Lopez #2021

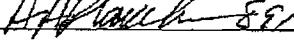
CASE NUMBER: 2013-0700-RCL

1100 W. NUEVA, BEXAR COUNTY, TEXAS

WHERE TAKEN: 214 W.Nueva

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Aubrey Plauche #0891, who being by me first duly sworn upon her oath and says:

back. Another officer with a better position than me told me that he had it and the other officer grabbed the left wrist. I do remember someone yelling "Tase Him" during the struggle. There were four (4) officers trying to get the suspect into custody when I had a hand on him. It appeared that his strength was way more than it should have been. We were having trouble handling him. I took a step back and when I did so, the suspect was able to get his hands free and the officers were losing control. Someone said "hurry, Tase him" and somebody tased him right then and there. When the officer said that he had tased him everyone turned loose and the suspect was saying "okay, okay". We were waiting for the suspect to collapse and instead the suspect stood up and all hell broke loose. We all tried to get hands on him, but the suspect started running towards 10807 Deepwater Bay and we were in pursuit of him. We were trying to cut him off and I ran to the left. I heard the front glass door shatter and it looked like he had gone through the glass, but he didn't get inside because it looked like the main door was locked. All the officers were still yelling commands at him to "get on the ground". The suspect was not complying with these requests. I ran around the car to help them and the suspect then broke to the left, I think to the West and when he was between two houses the officers were able to get hold of him again. I heard other Tasers go off but didn't see who had shot them. I heard someone yell to "get a K-9" and I noticed more officers on scene. I think about five (5) officers were engaged in trying to get the suspect into custody. The Tasers were having no effect so I went to my truck and leashed up my dog and when I turned around, the officers and the suspect were at a different house. I think 10811 Deepwater Bay and they were scuffling with the suspect who was flailing his arms and because of his strength the officers couldn't control him. The suspect broke away, going back towards 10807 Deepwater Bay and when he broke free I sent the K-9 to apprehend the suspect, but when I did so, someone stepped on his leash which stopped him. The suspect was running between the cars and I sent the K-9 again. The dog was right behind him and the leash got wedged under a tire, which stopped the dog again. The suspect continued past 10807 Deepwater Bay as I freed the dog and gave him the command to go again. The suspect went past the traffic cars and I was following the dog and I had Taser wires on me. When we got about 2/3 through the cul-de-sac, the dog got a bite on the suspect's buttocks area and the suspect continued to run with the dog on him. He was having trouble running with the dog on him and he then ran towards the door of 10802 Deepwater Bay with the dog still engaged. I do not know if it was a continuous bite or multiple bites, but the dog took the suspect down in some bushes in front of 10802 Deepwater Bay. Immediately when he fell, I reached to take control of the leash and I saw the officers piling onto his upper torso to try to get him into custody again. I took control of the leash and kept control of the dog which still had the suspect by his buttocks. The officers were continuing to tell the suspect to "stop resisting" and "put your hands behind your back", but the suspect wouldn't listen. I held onto the dog for a long time, I don't know how long, it seemed like minutes. I remember the dispatcher saying over the air to let her know when the suspect was in custody. The scuffle had gone on for several minutes and the dog lost his grip on the suspect's buttocks. The dog kept control of the suspect's clothing and this kept the suspect's legs under control so he couldn't get his legs under him. I kept tension on the leash while the officer's kept trying to get the suspect into custody. The officers were striking him. I saw punches to the suspect. They were punching him in his upper body to try to get him under control. I was controlling the lower body with the dog. Finally somebody said that they had got him and I called the dog off at that time, standing by for about two to three minutes. The suspect started saying


Signature

Sworn to and subscribed before me this 04th day of August, AD 2011


Witness

EXHIBIT "D-25"

COSA
000133

STATE OF TEXAS:

STATEMENT TAKEN BY: Ricky D. Lopez #2021
CASE NUMBER: 5-13-cv-00700-RCL
WHERE TAKEN: 214 W.Nueva

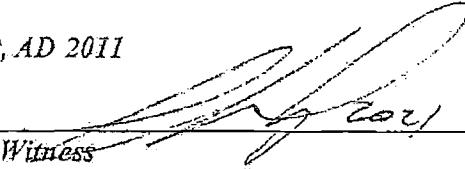
BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Aubrey Plauche #0891, who being by me first duly sworn upon her oath and says:

"okay, okay" and the officers had sat him up. When the officers stated that they had him in custody there was no other force used against the suspect. I did not see who got the handcuffs on the suspect and I was the last person using force against him because I had the dog. The suspect then lay down on his side. I had walked a few feet to let the dog cool off and after a minute or two I remember people yelling from 10807 Deepwater Bay, where the broken door was. I figured they were family members and I remember seeing an older lady at that house. She stayed over there and no one interfered with the arrest after that. I then went and put the dog up. I went back out in the cul-de-sac and was talking with other officers about what happened and I then went back over to the suspect to see where he had been bitten so I could put that into my use of force report. When I went over there, an officer was guarding the suspect and he told me that the suspect was not looking good. EMS had just pulled up to the scene and EMS quickly looked at him and I saw an officer un-handcuff the suspect, I assume because EMS told him to do so. The next thing I remember, the suspect was laying on his back and looked unresponsive. After that I hung out in case we had any crowd control issues. I remained there until the crime scene was processed. Once the scene was processed, I came to 214 W. Nueva to provide a statement.

This is all I can tell Det. Lopez about what happened. I gave this statement to Det. Lopez and I have read and understood it to be true and correct. These events all happened in San Antonio, Bexar County, Texas. End of statement.


Signature

Oath sworn to and subscribed before me this 04th day of August, AD 2011


Witness

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Number: 0968915
Date and Time: 8/4/2011 9:25 AM
Taken by: Det. R.Bunnell #2090

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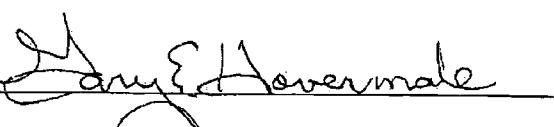
BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Gary Edwin Hovermale who being by me duly sworn upon his/her oath deposes and says:

My name is Gary Edwin Hovermale. I am 70 years old. I am retired military from the United States Air Force. I can read, write and understand the English language. I have come to the Homicide Unit today to talk to Detective Burnell #2090, about an incident that occurred in front of my home in the 10800 blk of Deepwater Bay, in San Antonio, Texas, on August 4th, 2011.

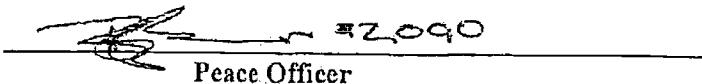
I was at home asleep in the living room of my home. I sleep in my recliner on occasions because of medication that I must take before going to bed and it knocks me out so I sleep very heavy. If I don't take it I'm in trouble, meaning I can't get to sleep. The master bedroom is upstairs and my wife had gone to bed earlier. Between 3 a.m. and 5 a.m., I am guessing, because I didn't look at the clock, my wife came downstairs and woke me up from my recliner and she told me that there was a lot of lights flashing outside and she was hearing voices in the front of the house. I sat up and went to the door and saw a lot of flashing lights. They were red and a lot of red lights at that and they appear to be all red when you don't have your glasses on. I looked through the window at the top of the wooden door and I looked down and could see a commotion in the flower bed and I heard noises like someone was giving commands. I went to put some shorts on, to be decent, you know, and then went back to the door. I cracked the door open and about five to six feet from my front door was my flower bed which is normally located in the front of the house around the perimeter and the house. I could see what was going on. The screen door was made of glass and one of the officers had approached the door and told me to close the door and stay inside. I never got out onto the porch entryway really.

When I opened the door, I heard someone saying Gary and I saw four to six police officers wrestling him. They were all ready on the ground with him and tearing up my flower bed. They looked like they were having a difficult time with him and they were saying, "Put your arms behind your back, put your arms behind your back!" and he was resisting. I saw several officers pulling on his arms trying to get them behind his back to hand cuff him and they were having a hard time restraining him. It appeared to me that he was resisting arrest. Because he was yelling, "Gary", I figured he must know who I was, but I didn't know who he was. There were so many police cars there that I didn't see any other vehicle that he may have been using. So I do not know if he was driving a vehicle or not. All of the police vehicles were located in the street. The guy that was fighting the police appeared to be a large guy, just thick. Once they got him out of the flower bed, all I saw was his butt and his butt was big, that's all I could say.

I couldn't even describe to you what the guy looked like or his race until the officers pulled him out of the flower bed. They had him in the grass and then I saw that he was a black or Hispanic because I

Signature: 

Sworn to and subscribed before me this 4th day of August A.D., 2011.

 #2090
Peace Officer

STATE OF TEXAS §
COUNTY OF BEXAR §

Case Number: 1-0968915
Date and Time: 8/4/2011 9:25 AM
Taken by: Det. R.Bunnell #2090

Page 2 of 2

BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally appeared Gary Edwin Hovermale who being by me duly sworn upon his/her oath deposes and says:

saw his butt. I left the screen door shut but the heavy wooden door open. Anyway they removed him from the flower bed to the grass in the yard and there were all kinds of officers around him so you really couldn't see what was transpiring.

When I was in the doorway, I did not see any of the officers with a baton in their hands or any other type of weapon. I didn't see anything like that. I then turned and went to get some coffee and then I went and sat in my recliner chair. I guess about thirty minutes to an hour later my wife's cell phone rang and woke her up again. My wife came downstairs and she handed me her cell phone and it was Brenda. Brenda is a neighbor. Brenda asked me if I was seeing what was happening in my front yard. I'm surprised she could see with all the police cars in front of the house. Police cars were in front of her house also. I told her that they had somebody out here and she said, "That somebody is my son." I didn't know who the suspect was at the time, but they had been in my flower bed. I told her that I didn't know what was going on or who the police had. I then hung up the phone. Just after that call, a neighbor across the street, Betty Jenkins called and asked me what was going on. Apparently they couldn't see what was going on either. I told her something like, "they have somebody on the ground here". I wasn't on the phone with her long at all. I stayed in the house until an officer came with one of your investigators to talk to me. I was then asked to come down to the police station to make a statement.

From the recliner I saw some paramedics with a stretcher arrive on the scene and I saw the paramedics pressing on his chest and from my military training that tells me that he was having heart problems and then they put him on the stretchers. They took him out of the yard,

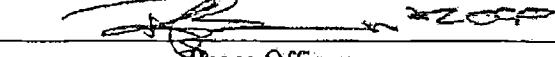
At this time, I still would not know who this suspect was if Brenda hadn't called me and told me that it was her son.

No one has promised me anything for my statement and everything I told Det. Bunnell #2090 in this statement is the truth. I have signed this statement because everything is true and correct. This incident occurred in San Antonio, Bexar County Texas.

||||||||||||||||END STATEMENT||||||||||||||||||||||||||||

Signature Gary E. Hovermale

Sworn to and subscribed before me this 4th day of August A.D., 2011.


Peace Officer